

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-796

January 5, 1999

BANGOR HYDRO-ELECTRIC COMPANY
Petition for Affiliated and
Reorganization Approval Needed
in Connection with Bangor Gas
Company Transaction

ORDER ON REQUEST FOR
RECONSIDERATION

WELCH, Chairman; NUGENT, DIAMOND Commissioner

I. INTRODUCTION

On November 19, 1998, Bangor Hydro-Electric Company (BHE) filed a Request for Reconsideration of our October 30, 1998 Order in this case. (Phase II Order). Specifically, BHE seeks clarification of whether it is required to seek Commission approval before it spends funds on determining whether to invest additional funds in its affiliate Bangor Gas Company (BGC) and preparing an application for Commission approval of the investment. In addition, BHE asks for clarification of what process will be used to litigate the issue of whether BHE meets the criteria in section 5(A) of Chapter 820 of our rules.

II. DISCUSSION

A. Prior Approval of Development Costs

On page one of our Phase II Order, we stated:

We further clarify that BHE must seek our prior approval for all monies expended on BGC, whether expenditures are characterized as investments, development costs, or otherwise.

Phase II Order at 1. BHE is concerned that this language requires it to seek prior approval of expenditures necessary to determine whether to seek to invest additional funds in BGC and prepare an application for Commission approval of the investment.

Our Phase II Order requires BHE to include in its application for approval of an investment in BGC (or other non-core ventures) the total amount that it projects it will spend on development costs (including amounts expended in determining whether to seek to invest in the project and in preparing the application). We do not interpret our Order to require *prior* approval of expenditures of development costs necessary to investigate a prospective non-core venture or to

prepare an application for regulatory approval of an investment.¹

BHE also ask for guidance in obtaining our approval for the amount of development costs it spent after August 31, 1998 in seeking regulatory approval in this case. Our Phase II Order approves the expenditure of \$624,000 in development costs. This amount does not include expenditures made by BHE after August 31, 1998 in seeking approval of its investment in this case.

In the future, we would expect BHE to include in the amount it seeks to invest a projection of total development costs sufficient to cover expenditures associated with seeking regulatory approval. However, in this case we will allow BHE to simply add the development cost overruns for Docket No. 97-796 to the amount of its next proposed investment in BGC.

B. Process for Determining Whether BHE Meets the Criteria in Section 5(A) of Chapter 820.

In our Phase II Order, we reserved for a future proceeding the issue of whether BHE would attain an investment grade bond rating within the meaning of Chapter 820 if its First Mortgage Bonds were privately rated BBB- but its private letter corporate credit rating did not exceed BB+. If BHE has attained an investment grade bond rating and the amount that it seeks to invest will not cause it to exceed the cap in section 5(A), BHE is not required to seek approval of the investment. MPUC Rules Ch. 820 § 5(A). BHE asks what process should be followed to determine whether it meets the criteria in section 5(A) of Chapter 820.

BHE has the option of pursuing either of the following two processes to determine whether it meets the criteria in section 5(A) of Chapter 820:

1. It could make a filing seeking either (1) a determination that BHE does not need to seek approval of the investment because it has attained an investment grade bond rating or (2) if it does need approval, that the investment be approved. BHE's initial filing would not have to include all the materials necessary for determining whether to approve an investment pursuant to Chapter 820 and section 708.² If we determined that BHE had attained an investment grade bond rating (assuming the proposed investment did not cause BHE to exceed the

¹We do not expect that an expenditure of more than \$50,000 would be necessary for such development costs.

²This process will avoid the unnecessary expenditure of development costs by BHE in the event we determine that approval of the investment is not required under Chapter 820.

cap in section 5(A) of Chapter 820), BHE would not be required to
n order to make the investment.
If, on the other hand, we determined BHE's
not meet the requirements of section 5(A), BHE would have the

2. BHE may seek an advisory ruling on whether it
601-604.

In either case, we will require BHE to file the
following information:

- a copy of the rating agency letter that BHE asserts
is evidence of its having attained an investment
grade bond rating.
- verification that BHE's rates under its lending
agreement with Fleet Bank have changed as a result
of the bond rating letter.³

These documents will help us to determine whether BHE has
attained an investment grade bond rating within the meaning of
that term in Chapter 820.

Dated at Augusta, Maine this 5th day of January, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

³ The rates paid by BHE under its lending agreement decrease
if it has attained an investment grade bond rating.

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.